IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.
WRIT PETITION NO.1232 OF 2004

Pratiba Naitthani. .. .. Petitioner
v/s.
Union of India & anr. .. .. Respondents

Mr.M.M. Vashi for petitioner.

Mr.B.A.Desai, Addl.Solicitor General for respondent No.1.

Mr.Sunil Kadam for respondednt Nos.3 & 7.

Mr.Anil Menon for respondent No.4.

Mr.Ranjit Shetty i/by PDS Legal for respondent No.5.

Mr.M.N. Thakore i/by Thakore Jariwala for intervenors.

Mr.Ritesh Kulkarni i/by ARA Law for intervenors.

W I T H

WRIT PETITION NO.1376 OF 2004

Akhil Bhartiya Agnishikha Manch. ... Petitioner
v/s.
The Managing Director, Star T.V.
& ors. ... ... Respondents

None for petitioner.
Mr.Ranjit Shetty i/by PDS Legal for respondent No.2.

CORAM : H.L. GOKHALE, ACTING C.J. &
V.M. KANADE, J.

DATED : 17th January 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. Writ Petition No.1232 of 2004 is filed in public interest making a grievance with respect to the films and various Serials which are shown on the Television ("T.V.") channels. The grievance principally is that obscene and violent films are telecast and also that the T.V. Serials have obscene and violent contents. As far as the grievance that these films and Serials are telecast and ultimately they are shown directly at the residences of the viewers, which is certainly not desirable, particularly for the minors, a detailed order dated 21st December 2005 has been passed by a Division Bench of this Court wherein as far as the films are concerned, Cable Operators and Cable Service Providers are directed in paragraphs 30 and 31 of that order not to carry in cable service the films other than the films sanctioned for unrestricted public exhibition by the Censor Board of Film Certificate ("Censor Board" for short). That takes care of part of prayer clause (a).

3. Prayer clause (a) also seeks the action against the cable channels and cable net work. As far as the T.V. channels are concerned, a new regime has come into operation from 1st January 2007 under which the viewers decide as to which

channels they would like to see. True that this system is operational only in the island city of Mumbai or some parts of Delhi as is pointed out, but at the same time it is necessary that the producers of these Serials also ought to have a say, if any orders are to be passed against them. They are not before the Court.

4. Mr.Vashi, learned Counsel appearing for the petitioner, points out that under the law this Censor Board is required to certify even the T.V. Serials. It has been stated on behalf of the Censor Board that they have a paucity of the man power. Mr.Vashi submits that this cannot be a ground not to have a full-fledged mechanism. We quite see force in the submission of Mr.Vashi and if there is a requirement of law, the Censor Board must take necessary steps so that ultimately the Serials are examined and certified as required by the law. The fact, however, remains that as of now there is no such certification. Wherever there is a certification and which is available, as far as the films are concerned, on the basis of a bench-mark, the Censor Board declares certain films as not meant for unrestricted exhibition. As far as those films are concerned, as stated above, an appropriate order has been passed.

5. As far as the T.V. Serials and other programmes are concerned, the Censor Board must take the steps to have an appropriate mechanism and the personnel which we expect them to evolve as early as possible. In the meanwhile, however, if the petitioner or similar kind of citizens have grievance against a particular Serial, the better course will be that they ought to lodge their complaints to the Censor Board and the Censor Board, by following the law, which will, of course, include some kind of hearing to the producers of the Serials, will take appropriate decision as to whether they should be certified as meant for unrestricted exhibition or otherwise.

6. As far as Serials other than those which are specifically objected are concerned, we will have to wait for the Censor Board to have an adequate personnel and as stated above, we expect the Censor Board to evolve a machinery and have the adequate personnel as early as possible.

7. It has also been stated on affidavit on behalf of the Central Government that the appropriate guidelines are being framed and the law in that behalf is also being evolved. As and

when the same is evolved and the guidelines are framed, the regulatory mechanism, if provided thereunder, will become operational.

8. As far as the newspapers are concerned, Mr.Vashi is not pressing for any orders.

9. The Petition stands disposed of, though the order passed by a Division Bench with respect to the films on 21st December 2005 and particularly paragraphs 30 and 31 thereof, as modified by order dated 31st August 2006, will continue to operate as part of this final order.

10. All the interim applications taken out in this Petition also stand disposed of with this order.

11. We make it clear that if any party is prosecuted on the basis of paragraphs 30 and 31 of the aforesaid order, whatever defences are permissible in law and on facts to such party will be available to him.

12. In view of the order passed in the above Writ Petition No.1232 of 2004, nothing survives in Writ Petition No.1376 of 2004 and the same is

disposed of as rendered infructuous.

(ACTING C.J.)

(V.M. KANADE, J.)